

## Site Visit Can Be an Unreasonable Requirement When?

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The Site Visit clause states that offerors are “urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable....” (FAR 52.237-1) This clause is specified by the Federal Acquisition Regulations for service contracts, but in this case, appeared in construction contracts.

The contractor was to provide materials and labor to cover exposed interior roof trusses and ceiling joists in a large amphitheater in accordance with the Government’s design. The work involved fabrication of tubular steel frames resting upon steel supports welded to existing trusses and beams. The frames were to be covered with cloth and would serve to conceal stage lighting and other items mounted on and above the trusses and beams.

The successful bidder did not visit the site before bidding. The work area was 25’ above the floor and a thorough survey would have taken two days and required scaffolding and permission and coordination with engineering staff and other users of the building. Even if someone had crawled in and around the beams with a flashlight, not all of the existing conditions would have been visible.

The fabrication subcontractor verified drawing dimensions at the site, and found that the frames would fit, except for spaces in two bays containing conduit (which were shown on the drawings), and made adjustments to account for the conduit. During verification, the fabricator found many obstructions which would conflict with the frames. The obstructions had not been noted on the drawings, and the Board found that they could not have been reasonably discovered by a prudent bidder.

The Government agreed to remove the obstructions before installation began, but removed only some of them. Only 60 of 95 frames fit into the spaces as designed. The Government observed the condition, but refused to remove the obstructions or direct the contractor how to proceed. The contractor was told “to get your tail over there and get to work,” and was continually threatened with default and liquidated damages if it did not solve the problem promptly. The frames were cut and remanufactured at the site to fit around the obstructions and the work was completed on time by using overtime work. The Government argued that the contractor was not entitled to

equitable adjustment because of its failure to make a site visit. The Board disagreed, finding it unreasonable to expect a bidder to expend the extra time and effort this job would have required to discover the concealed obstructions. *Packard Construction Corp.*, 94-1 BCA ¶26,577.

**In the end, you will be glad you made the call; by the way, it's a FREE CALL.**

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